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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 FRANCIS O. BIDDLE,

12 Plaintiff,

13 vs.

14 MICHAEL J. ASTRUE,
Commissioner of Social Security,

15 Defendant.
16

CASE NO. 11-CV-0698-H-CAB

**ORDER DENYING IN FORMA
PAUPERIS APPLICATION
WITHOUT PREJUDICE AND
GRANTING 30 DAYS TO PAY
FILING FEES**

17 On April 6, 2011, Plaintiff Francis O. Biddle (“Plaintiff”) filed a complaint against
18 Defendant Michael J. Astrue (“Defendant”). (Doc. No. 1.) Plaintiff also filed a motion to
19 proceed *in forma pauperis*. (Doc. No. 2.)

20 All parties instituting any civil action, suit, or proceeding in a district court of the
21 United States, except an application for writ of habeas corpus, must pay a filing fee of \$350.00
22 See 28 U.S.C. § 1915(a). An action may proceed despite a plaintiff’s failure to prepay the
23 entire fee only if the plaintiff is granted leave to proceed *in forma pauperis* pursuant to 28
24 U.S.C. § 1915(a). See Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999). The benefit
25 of proceeding *in forma pauperis* is a privilege, not a right. Franklin v. Murphy, 745 F.2d 1221,
26 1231 (9th Cir. 1984). As 28 U.S.C. § 1915(a)(1) states, in part:

27 [A]ny court of the United States may authorize the commencement, prosecution
28 or defense of any suit, action or proceeding, civil or criminal, or appeal therein,

1 without prepayment of fees or security therefor, by a person who submits an
2 affidavit that includes a statement of all assets such [person] possesses that the
3 person is unable to pay such fees or give security therefor.

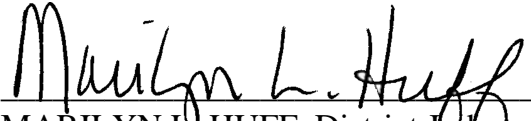
4 A plaintiff need not “be absolutely destitute to enjoy the benefit of this statute.” Adkins v. E.I.
5 DuPont de Nemours & Co., 335 U.S. 331, 339 (1948); Jefferson v. United States, 277 F.2d
6 723, 725 (9th Cir. 1960), cert. denied, 364 U.S. 896 (1960). He must, however, demonstrate
7 his poverty with “some particularity, definiteness, and certainty.” United States v. McQuade,
8 647 F.2d 938, 940 (9th Cir. 1981).

9 The Court notes that Plaintiff receives \$825.00 each month through Social Security and
10 disability. (Doc. No. 2 at 2.) Plaintiff also has a combined balance of \$4000.00 in checking
11 and savings accounts. (Id.) Furthermore, Plaintiff owns an automobile vehicle and mobile
12 home property, although the value of either is unknown. (Id. at 2-3.)

13 It appears Plaintiff can afford the \$350.00 filing fee. Accordingly, the Court DENIES
14 the request to proceed *in forma pauperis*. Petitioners must, no later than **May 7, 2011**, provide
15 the Court with: (1) a copy of this Order together with the \$350.00 filing fee; or (2) a copy of
16 this Order together with adequate proof that Petitioners cannot pay the \$350.00 filing fee.

17 IT IS SO ORDERED.

18 Dated: April 7, 2011

19 
20 MARILYN L. HUFF, District Judge
21 UNITED STATES DISTRICT COURT
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